

U S WEST today makes investment and dividend payout decisions on the basis of whatever incentives and opportunities its management perceives. U S WEST does not need to merge with Qwest in order to make out-of-region investments, including at least some of those contemplated by the merger parties. The merged company also will have some *new* investment opportunities arising from the combination itself. As I have demonstrated above, one of the new in-region opportunities will be the increased profitability of gaining Section 271 authority. More generally, out-of-region investment is no less likely to be procompetitive than in-region investment. Capital markets, generally regarded as efficient, would facilitate such investments whether or not dividends were reduced. The commenters have not offered any reason to doubt that investment resources will be allocated in an economically efficient manner among the opportunities facing the combined firm, or to doubt that the incentive to achieve Section 271 approval will be enhanced by the merger.

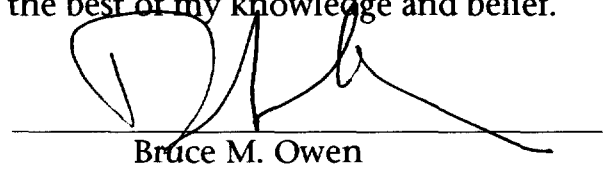
In conclusion, there is no logical policy basis for the imposition of merger-related conditions on Qwest, not only because (as Dennis Carlton and Hal Sider point out) there are no merger-related anticompetitive incentives or opportunities, but also because the merger's only effect on in-region competition is to promote it.

V. Conclusion

The *direction* of the net effects of the incentives described above on the combined company is indisputable. The combination tends to make achieving Section 271 authority more profitable than before the merger. The merger causes no incentives working in the other direction, and more generally, creates no new incentives to restrict competition. The merger's only effect relevant to economic policy is its clear tendency to accelerate satisfaction of the Section 271 conditions in the fourteen-state U S WEST region.

The foregoing is true and complete to the best of my knowledge and belief.

October 18, 1999



Bruce M. Owen

CURRICULUM VITÆ

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ATTACHMENT C

QWEST PLAN FOR DIVESTITURE OF INTERLATA BUSINESS IN THE U S WEST REGION

**QWEST PLAN FOR DIVESTITURE OF INTERLATA
BUSINESS IN THE U S WEST REGION**

October 1999

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QWEST PLAN FOR DIVESTITURE OF INTERLATA BUSINESS IN THE U S WEST REGION

INTRODUCTION AND OVERVIEW

Qwest is currently providing interLATA interexchange services throughout the country, including in the U S WEST region. Qwest does not anticipate that U S WEST will have received interLATA relief before the pending merger of the two companies closes in the second quarter of 2000. As a result, prior to closing Qwest will take all steps necessary to discontinue providing interLATA services in the U S WEST region, and assign all existing service obligations to one or more independent interexchange carriers.

Qwest has adopted two over-arching principles for divestiture: (1) minimize impact on customers, with seamless transition and no increase in rates; and (2) fully comply with the requirements of Section 271 of the Telecommunications Act of 1996. To that end, Qwest is currently engaged in the complex administrative process of implementing its divestiture. Qwest is completing the work of reviewing all customer contracts to identify interLATA services that must be divested as of closing. This has been a large undertaking, covering both retail and wholesale accounts. Simultaneously, Qwest has been addressing the operational issues associated with divesting services.

The divestiture plan set forth here is the product of this activity. Next Qwest will begin to meet with potential buyers of the services to be divested. For simplicity, this plan generally refers to a singular "Buyer," but in fact Qwest may divest different services to different carriers, and the plan should be understood as referring to any Buyer unless otherwise noted.

In each case Qwest's divestiture of services will be final and irrevocable, with no right for Qwest to reacquire the customers at a later point. Buyer will be independent of Qwest. It will be expected to hold FCC Section 214 authority and certificates in the relevant states, and to be technically and operationally able to take on service obligations in a timely fashion without customer disruption.

It should be emphasized that Qwest does not plan to sell its existing fiber optic transmission plant. Qwest will continue to use that plant to provide telecommunications services originating outside the U S WEST region, or incidental interLATA services, as permitted by Section 271 of the Act. To the extent that Buyer needs to supplement its existing transmission network in order to meet the interLATA service obligations it assumes, it will have to obtain wholesale

transmission services from a different carrier. Qwest may be a vendor to the Buyer of certain support functions such as billing and collection, but Qwest is cognizant that it may not provide wholesale interLATA telecommunications services as defined by the Act.

As a condition of acquiring Qwest's in-region service business, Buyer will be obliged to assume all of Qwest's existing contractual obligations and agree not to raise rates for Qwest-tariffed services for a specified interval. Qwest and Buyer will provide advance notification of the change in service provider, and take other actions to make the transition smooth and uneventful for customers.

Set forth below is a detailed description of how Qwest intends to divest each of its in-region interLATA service categories. This memorandum also provides a summary of how the divestiture plan meets the statutory requirements of Section 271. Again, Qwest's objective is to satisfy the Telecom Act without adverse impact on customers as they are assigned to a new carrier. Qwest may continue to adjust the plan in minor respects as it negotiates with potential buyers, pursues operational issues, and meets with its customers. However, Qwest is confident that its divestiture process will move forward expeditiously so as to permit a closing in the second quarter of 2000.

I. ORIGINATING INTERLATA LONG DISTANCE AND TERMINATING 800 SERVICES

A. Description of Divestiture Plan

Qwest will irrevocably transfer its in-region interLATA originating switched long distance business, and in-region interLATA terminating 800 business, to a certificated carrier as of closing. The cutover to the new carrier will be done on a seamless and transparent basis, just as customers change long distance service providers routinely today.

Customers located wholly outside the 14 U S WEST states will not be affected by divestiture. Qwest will continue to provide out-of-region long distance and terminating 800 service. Where Qwest currently is providing service to large business accounts with locations both inside and outside the U S WEST region, Qwest will divest the in-region interLATA services to Buyer under the same processes discussed here.

This divestiture will not result in rate increases to consumers. The new carrier will agree, as a condition of buying the divested business, not to increase rates to customers taking service under tariff for a fixed period still to be

determined. ^{1/} Any rate changes made by the Buyer thereafter will be subject to the regulatory policies of the FCC and state public utility commissions. Customers will receive advance notice of the change in their long distance carrier, including a reminder that they have the ability to take their business to another IXC.

Insofar as customers take service under contracts, the new carrier will assume responsibility for meeting all terms of those contracts (including price and service quality conditions) related to the in-region interLATA services. When the contract expires, the customer may negotiate new interLATA arrangements with any carrier it wants, but not Qwest prior to Section 271 relief.

The Buyer will be independent of Qwest, and will provide service to customers over its own transmission network and local access. Qwest will not provide the new carrier with any prohibited in-region wholesale interLATA transmission services. Buyer may contract with Qwest for certain support functions that do not constitute the provision of "telecommunications" under the Act, especially where doing so will minimize impact on customers. For example, Buyer may lease the use of ports on Qwest interexchange voice switches, and/or request specific billing and collection or customer care support. However, it is premature to determine the Buyer's need for these functions.

B. Legal Analysis

This divestiture plan will completely remove Qwest from the in-region interLATA services market with respect to originating long distance and terminating 800 service, as required by Section 271. Qwest is allowed to provide out-of-region and incidental interLATA services pursuant to Section 271(b)(2) and (3) of the Act.

Purely as an implementation measure, Qwest and Buyer would jointly seek a waiver of 47 C.F.R. §§ 64.1100 *et seq.* in order to assign tariff-based customers from Qwest to Buyer without obtaining individual Letters of Authorization and verification from each end user. The Bureau has granted numerous such LOA waivers recently in similar circumstances. ^{2/} Qwest and Buyer

^{1/} The designated "no rate increase" period will supplement and extend the regulatory rules already applicable to rate changes by non-dominant interexchange carriers, and therefore will give customers more protection than they have today.

^{2/} See, e.g., *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, AT&T Corp. Request for Waiver, CC Docket No. 94-129, Order, DA 99-1718 (Com. Car. Bur., released Aug. 27, 1999); *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, Sprint Communications Co.,

[Footnote continued]

will design the divestiture transition to meet the conditions identified in previous LOA waivers. As noted above, Qwest will ensure that customers taking service under tariff are fairly protected through commitments by Buyer to provide service to these customers at the same or more favorable rates for a certain period of time. Qwest and Buyer also will provide customers with information about their right to move to a different IXC. No LOA waiver is required in the case of business customers who have signed contracts consenting in advance to assignment to another service provider. However, Qwest and Buyer will contact those customers, notify them of the assignment, assure them that Buyer will meet the contract terms, and answer any questions.

Qwest expects the support functions to be provided in connection with these switched services to be limited. These matters are addressed in detail in Section II.C below, and that legal analysis is incorporated here.

II. PRIVATE LINE VOICE AND DATA SERVICES

A. Description of Divestiture Plan

Qwest will irrevocably assign a new carrier (or carriers) all retail and wholesale private line voice and data services where a circuit provided to a customer crosses a U S WEST LATA boundary. The Buyer will assume all Qwest tariff and contract commitments to customers, including those related to price and service quality. Qwest and the Buyer will communicate with customers in advance of the cutover to explain the change in service provider and address any customer questions.

As permitted by the Telecom Act, Qwest will continue to provide private line voice and data services outside the U S WEST region. Where a customer network has locations both inside and outside U S WEST LATAs, Qwest only will provision out-of-region circuits, and will interconnect with the Buyer at a location outside the U S WEST region. The Buyer will become the customer's carrier of record for circuits crossing U S WEST LATA boundaries and assume all responsibility for providing that service.

[Footnote continued]

L.P., Request for Waiver, CC Docket No. 94-129, Order, DA 99-1112 (Com. Car. Bur., released June 17, 1999); *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, One Call Communications, Inc. d/b/a Opticom Request for Waiver*, CC Docket No. 94-129, Order, 14 FCC Rcd 7942 (Com. Car. Bur. 1999).

The Buyer will be required to provision any Qwest-prohibited interLATA circuit over a transmission network that it owns or controls. Qwest will not provide such wholesale transmission service. Buyer may contract to lease the use of ports on Qwest data switches, connecting non-Qwest interexchange and access transmission circuits to those switches. Buyer may also contract with Qwest for other support functions useful in meeting customer requirements. This support may include some combination of billing and collection, customer care and provisioning, and/or monitoring, troubleshooting and related repair activities. Any such support would be provided pursuant to arm's length contracts, under the direction and control of Buyer, and consistently with the Telecom Act.

Qwest provides dark fiber under term leases in a few instances where the fiber path crosses U S WEST LATA boundaries. Qwest will discontinue or divest these arrangements. By contrast, Qwest also has sold IRUs in its network outright. These sales conveyed ownership rights in specific dark fibers for the economically useful life of the fiber. The purchaser obtained control over the fiber, and is treated as the owner for tax and accounting purposes. Qwest has no legal ability to unwind these completed sales. ^{3/} In some instances Qwest separately receives recurring revenue for work to maintain the IRU fibers and buildings where the IRU owner has installed regeneration or amplifier equipment, or related monitoring and repair activity. Qwest will continue to provide these functions.

B. Legal Analysis

Divestiture of all dedicated voice and data interLATA services in the U S WEST service area that cross LATA boundaries completely satisfies the requirements of Section 271. Qwest may continue to provide out-of-region and incidental services pursuant to Sections 271(b)(2) and (3) of the Act.

No issue arises from the fact that other parties previously have purchased ownership rights through IRUs in fiber facilities that Qwest has constructed. Section 271 prohibits BOCs from prematurely providing "interLATA service," which Section 3(21) defines as "telecommunications between a point located in a [LATA] and a point located outside such [LATA]." In turn, "telecommunications" is defined by the Act as "the transmission, between or among points specified by the user, of information of the user's choosing without change in

^{3/} The primary IRU purchasers are Frontier, GTE and MCI WorldCom, each of whom acquired their IRUs in connection with the construction of the Qwest network. Revenue was booked as "network construction."

the form or content of the information as sent and received." 47 U.S.C. §(3)(43). In this case, Qwest is not engaged in any transmission whatsoever.

Qwest is aware of the Commission's dictum that a BOC may violate Section 271 if it owns a fiber and "merely leases it to the customer for a term of years." ^{4/} This statement appears to rest on pre-Act law. ^{5/} Nevertheless, in the interest of expediting the merger closing, Qwest is undertaking to divest itself of dark fiber leases where the fiber in question crosses U S WEST LATA boundaries.

However, the sale of dark fiber facilities is different from a term lease. The Commission itself has contrasted such a lease with the sale of a facility used in a network: "The one-time transfer of ownership and control of an interLATA network is not an interLATA service, which means it falls entirely outside the section 271/272 framework that governs interLATA services." ^{6/} Qwest's IRU sales are in this category. Ownership and control has passed to the IRU buyers, and those completed transactions cannot be unwound.

C. Support Functions

Buyer may enter into arm's length commercial contracts with Qwest for one or more support functions. Such functions may reduce the impact of divestiture on customers, improve the quality or efficiency with which Buyer meets its interLATA service obligations, or reduce Buyer's costs. It is important to emphasize that none of these support functions would be provided by the U S WEST local exchange company (with the possible exception of billing and collection). Rather, the support would come from the Qwest out-of-region interexchange

^{4/} See *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as Amended*, CC Docket 96-149, Second Order on Reconsideration, 12 FCC Rcd 8653, 8683, ¶ 54 n.110, *aff'd*, *Bell Atlantic Telephone Companies v. FCC*, 1197 WL 783993 (D.C. Cir. 1997) ("Second Reconsideration Order").

^{5/} In decisions prior to passage of the Telecom Act, the Commission concluded that it had jurisdiction over dark fiber because it could regulate "wire communication" and facilities "incidental" to wire communication. Dark fiber, it held, fell into that category. Subsequently, however, the Commission simply assumed that provision of dark fiber *also* falls within the new term "telecommunications" added by the 1996 Act. *Second Reconsideration Order*, 12 FCC Rcd at 8683, ¶ 54 n.110. On closer examination, Qwest would expect the Commission to find that, whatever its jurisdiction to regulate dark fiber, the provision of dark fiber by itself does not include the activity of "transmission" necessary to render it "telecommunications" under the Act.

^{6/} *Second Reconsideration Order*, 12 FCC Rcd at 8683, ¶ 54 n.110.

affiliate. In that sense, the arrangements would be akin to the assistance that non-dominant IXC's routinely contract to provide one another in the industry.

Because this support activity does not constitute "telecommunications," Qwest may provide such assistance to Buyer without violating the Act. ^{7/} The legal status of specific support functions is discussed below.

1. Switch ports.

First, Buyer may contract for the ability to lease ports on Qwest data switches. This accommodation would permit Qwest customers to be transitioned to Buyer without reprovisioning of their access connections, thereby eliminating the possibility of access-related outages or other disruptions. Use of Qwest switch ports by Buyer also can simplify network routing activity. Qwest would assign Buyer its rights to any ILEC- or CLEC- provided local access used to reach the customer locations Qwest no longer can serve. ^{8/} Buyer would leave that access physically in place, leasing the associated ports on the Qwest-owned switches. Qwest would permit Buyer to collocate at its data switch premises and connect non-Qwest interexchange transmission to the Buyer-leased ports. All Qwest-prohibited services would be transmitted by Buyer over Buyer's own interLATA circuits. Going forward, Buyer would supplement its network as necessary to serve the growth requirements for the in-region interLATA business it has assumed. Qwest would agree to lease additional ports as necessary to support new Buyer access and interexchange facilities.

The lease of a switch port is not the provision of "telecommunications," let alone interLATA service. Rather, the switch port is "telecommunications equipment", defined in Section 3(45) of the Act as "equipment * * * used by a carrier to provide telecommunications services." The switch port also can be seen as a "network element," that is, "a facility or equipment used in the provision of a telecommunications service" under Section 3(29) of the Act. The Commission has specifically held that "[a] 'network element' is not a 'telecommunications service.'" ^{9/}

^{7/} As noted in Section I above, Buyer of Qwest's originating long distance and terminating 800 in-region services may contract for certain of these support functions. For example, Qwest may be willing to lease ports on its interexchange toll switches to the Buyer, or provide billing and collection for the Buyer. The same legal analysis would apply in those instances.

^{8/} Qwest itself does not have material local access facilities in the U S WEST region.

^{9/} *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, First Report and Order, 12 FCC Rcd 8776, 8864-65, ¶ 157 (1997), *aff'd sub nom. Texas Office of Pub. Util. Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999).

The Commission similarly has found in other situations that a party is not engaged in "telecommunications" when it supplies equipment used for transmitting information, but is not itself the transmitter. 10/

2. Billing and collection.

Buyer also may contract with Qwest for billing and collection services. This function would permit customers to continue to receive a single bill for their in-region and out-of-region interexchange services. To avoid customer confusion, any bill would make clear that Buyer alone is the provider of the in-region interLATA services. As noted above, Qwest would have no role in setting or influencing the prices charged by the Buyer (except insofar as Buyer assumes Qwest's pre-existing contractual obligations for the balance of the contract term). Nor would Qwest share in the revenues received by the Buyer.

Billing and collection is an unregulated, non-common carrier service 11/ that BOCs (including U S WEST) have been providing for unaffiliated IXC's operating in their regions since the AT&T divestiture. It is not a "telecommunications" service as defined by the Act. There is clearly no Section 271 impediment to Qwest's provision of billing and collection to the Buyer in this context.

3. Customer care and provisioning.

Buyer also may contract with Qwest for other customer care and provisioning functions. Any such functions would be performed on behalf of, and under the direction of, the Buyer. This activity may be particularly useful to support a smooth transition of in-region customers to Buyer, and to support customers who continue to receive out-of-region services from Qwest post-divestiture. In all cases the Buyer will be clearly identified to customers as the provider of the in-region interLATA services.

The scope of customer care support required by the Buyer remains to be determined. However, in principle, Buyer customers could call a customer service representative employed by Qwest to place service orders, discuss their bills or make payment arrangements, obtain other information about the services

10/ See, e.g., *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Fourth Order on Reconsideration, 13 FCC Rcd 5318, 5479, ¶ 290 (1997) (satellite operator leasing transponders is not transmitting information, and thus is not engaged in "telecommunications").

11/ See *Detariffing of Billing and Collection Services*, CC Docket 85-88, Report and Order, 102 FCC.2d 1150 (1986), *recon. denied*, 1 FCC Rcd 445 (1986).

available, or report technical trouble with their service. Buyer would be identified as the interLATA service provider in all such customer contacts.

Similarly, Buyer could contract with Qwest for assistance in provisioning activity. Qwest might act as Buyer's agent to arrange local access, interface with national 800 numbering organizations, physically install circuit connections to leased ports in the Qwest premise, or handle similar back-office functions.

None of these activities constitute the provision of "telecommunications" as defined by the Act. None of them are regulated common carrier services. BOCs, including U S WEST, provide these functions today. Qwest may similarly provide them to the Buyer of its divested services. 12/

Qwest recognizes that, in the *Teaming Order*, the Commission expressed concern regarding customer care provided by BOCs on behalf of an in-region IXC. 13/ The Commission concluded that Section 271 issues arise where "a BOC's involvement in the long distance market enables it to obtain competitive advantages, thereby reducing its incentive to cooperate in opening its local market to competition." 14 /

This situation, however, is entirely different. As noted above, it is relevant that customer care support would be offered by the Qwest out-of-region IXC affiliate, and not the U S WEST ILEC. Nothing in the Telecom Act prevents an out-of-region RBOC affiliate from providing support services to another IXC, even when, as here, the two carriers would be serving the same customer. 15 /

12/ See *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended*, CC Docket No. 96-149, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 21905, 21991, ¶ 179 (1996) ("*Non-Accounting Safeguards Order*") (BOC may share customer care services with a Section 272 affiliate); *Applications of Ameritech Corp., Transferor, and SBC Communications, Inc., Transferee, For Consent to Transfer Control*, CC Docket No. 98-141, Memorandum Opinion and Order, FCC 99-279, ¶ 469 (released Oct. 8, 1999) (SBC/Ameritech may provide customer care services on an exclusive basis to advanced services affiliate).

13/ *AT&T Corp. v. Ameritech Corp.*, File No. E-98-41, et al., Memorandum Opinion and Order, 13 FCC Rcd 21438, ¶ 46 (1998) ("*Teaming Order*"), *aff'd sub nom. U S WEST Communications, Inc. v. FCC*, 177 F.3d 224, (D.C. Cir. 1999).

14/ *Id.* at ¶ 39.

15/ *AT&T Corp. v. BellSouth Corp.*, File No. EAD-99-001, Memorandum Opinion and Order, 15 C.R. (P&F) 634, 1999 FCC LEXIS 1301, ¶ 19 (Com. Car. Bur., released Mar. 30, 1999, corrected

[Footnote continued]

In any event, the *Teaming Order* is distinguishable on its own terms. First, neither Qwest nor U S WEST would obtain “material benefits * * * uniquely associated with the ability to include a long distance component in a combined service offering.” 16/ The customer care functions contemplated here do not involve “one-stop shopping” or “full service” combined local/long-distance offerings (with which the Commission was concerned in the *Teaming Order*). 17/

Second, the BOC would not be “effectively holding itself out as a provider of long distance service” within its region,18/ because Qwest and the Buyer will make it clear that long distance service in the U S WEST region is to be provided by the Buyer. Qwest’s customer care role would not “permit [a BOC] to use [its] local-market dominance in support of [its] offering in a manner that other carriers seeking to offer a similar combined service could not do.” 19/

Finally, the customer care functions that Qwest might perform would not include activities that are central to the legal or contractual responsibilities of an interLATA service provider. Most critically, Qwest would have no involvement in setting the prices that the Buyer will charge to end users. 20/ The Commission has previously stated that customer care functions “would be analogous to billing and collection arrangements and would be permissible under section 271” in these circumstances. 21/

[Footnote continued]

Marc. 31, 1999) (“*BellSouth Prepaid Card Order*”). The Commission held there that BellSouth’s offering of prepaid cards “does not, however, confer on BellSouth the unique advantage, about which the Commission was concerned in [the *Teaming Order*], of being able to offer a service which included both local and long-distance calling in a manner that was not available to non-BOC competitors in the market.” *Id.*; see also *Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier*, Order, 11 FCC Rcd 3271 (1995) (competitiveness of national long-distance marketplace).

16/ *Id.* at ¶ 37.

17/ *Id.* at ¶¶ 39-44.

18/ *Teaming Order* at ¶ 39.

19/ *BellSouth Prepaid Card Order* at ¶ 25.

20/ *Cf., id.* at ¶¶ 46-47.

21/ *Teaming Order* at ¶ 50; see also *BellSouth Prepaid Card Order* at ¶¶ 35-37.

4. Monitoring, trouble-shooting, maintenance, and repair.

Because Qwest will continue to operate as an out-of-region facilities based IXC, it will continue to engage in various monitoring, trouble-shooting, maintenance and repair activities. Qwest anticipates that some potential buyers may want to contract with Qwest for it to provide similar functions on their behalf.

Qwest already provides these kind of support functions, and is prepared to offer them to the Buyer here under arm's length contracts. For example, Qwest has the capability to monitor circuits and make predetermined routing changes at its switch ports leased by Buyer in the event of faults (based on Buyer's advance instructions, and assuming Buyer has arranged to have alternate facilities in place). Qwest also could begin fault isolation on Buyer's behalf; effect repairs to the switch if the problem is in a Buyer-leased port; or open trouble tickets with other carriers as Buyer's agent to obtain repair activity by them.

Importantly, in all circumstances Qwest would provide these support functions under the absolute control and direction of its customer, the Buyer. The Buyer would bear all responsibility for directing Qwest employees regarding actions that might affect Buyer's interLATA services. Buyer would designate policies and standards, and make all material decisions, related to operation of the particular network elements.

Buyer will contract for such support activities to the extent that they permit Buyer to offer customers better service quality more efficiently and at lower cost. These support functions may be particularly useful as Buyer assumes the service quality and other obligations present under existing Qwest customer contracts. Qwest is sensitive to ensuring customers that the divestiture process will be as transparent to them as possible. If by providing these support functions Qwest can contribute to limiting the impact on customers of the assignment to a new carrier, the public interest is clearly served.

None of these support functions itself constitutes the provision of "interLATA telecommunications" because in no case will Qwest be engaged in the transmission of information. 22/ Nor will Qwest be holding itself out as an interLATA service provider. Thus, this activity does not violate Section 271.

22/ 47 U.S.C. § (3)(43).